

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

08	MARK WAYNE CLARK,	)	CASE NO. C04-1647-JCC-MAT
		)	
09	Plaintiff,	)	
		)	ORDER DENYING PLAINTIFF'S
10	v.	)	MOTION FOR RECONSIDERATION
		)	OF ORDER DENYING LEAVE TO
11	DEAN MASON, et al.,	)	CONDUCT MORE THAN TEN
		)	DEPOSITIONS
12	Defendants.	)	
	_____	)	

On August 23, 2006, the court issued an Order that denied plaintiff's motion for leave to conduct more than ten depositions. (Dkt. #191). The Order also granted plaintiff's motion to extend discovery deadlines and granted in part defendants' motion for a protective order. On September 8, 2006, plaintiff filed a motion for an extension of time to file a motion for reconsideration of the denial of his motion to conduct more than ten depositions.<sup>1</sup> (Dkt. #193).

---

<sup>1</sup> Although the motion for an extension of time appears to be untimely, under the "prison mailbox rule," a document submitted by a prisoner is deemed to be filed the day the document is delivered to prison authorities for mailing to the court. *See Houston v. Lack*, 487 U.S. 266, 270 (1988). Petitioner's motion for an extension of time was signed, and presumably delivered to prison authorities, on September 6, 2006, making it fall within the 10-day limit for motions for reconsideration. *See* Local Rule CR 7(h)(2); Fed. R. Civ. P. 6(a).

01 The Court granted the motion for an extension of time and plaintiff thereafter filed the instant  
02 motion for reconsideration. (Dkt. #195). Having considered the motion and the balance of the  
03 record, the court does hereby find and ORDER as follows:

04 (1) In denying plaintiff's motion for leave to conduct more than ten depositions, the  
05 court found that plaintiff had failed to make a "particularized showing as to the need for additional  
06 depositions," and that plaintiff also discounted the burden that additional depositions would  
07 present to defendants, who must pay and arrange for all depositions due to plaintiff's status as an  
08 incarcerated litigant. (Dkt. #191 at 3). Accordingly, the Court concluded that the burden of the  
09 additional depositions outweighed their benefit and denied plaintiff's motion.

10 Local Rule CR 7(h)(1) sets forth the standard for motions for reconsideration: In order to  
11 prevail, the movant must show either "manifest error in the prior ruling" or "new facts or legal  
12 authority which could not have been brought to [the Court's] attention earlier with reasonable  
13 diligence." Local Rule CR 7(h)(1). Plaintiff does not attempt to meet either prong of this  
14 standard. Instead, he claims that (1) before he filed the motion, he was unable, due to an  
15 inadequate law library, to read the cases that discuss the standard that governs motions for leave  
16 to conduct more than ten depositions; (2) as a consequence, his prior motion contained inadequate  
17 information; and (3) he is willing now to supplement his prior motion with additional information,  
18 if the court will grant him additional time "to provide the Court with detailed explanation as to  
19 why those defendants need to be deposed." (Dkt. #193 at 9). In addition, plaintiff states that  
20 instead of the 25 additional depositions he originally considered necessary to conduct, he can now  
21 make do with only 8. (*Id.*)

22 Plaintiff's argument is unavailing. Although *pro se* pleadings must be interpreted liberally,

01 *pro se* litigants are not exempt from procedural or substantive requirements. *See, e.g., Raspberry*  
02 *v. Garcia*, 448 F.3d 1150, 1154 (9th Cir. 2006) (holding that a *pro se* petitioner's lack of legal  
03 sophistication is not, by itself, an extraordinary circumstance warranting equitable tolling).  
04 Accordingly, plaintiff's contention that his earlier motion was deficient due to constraints imposed  
05 by his *pro se* status, lacks merit. Moreover, it is arguable that even though plaintiff did not have  
06 access to the cases cited by the Court in its Order of August 23, 2006, plaintiff did have access  
07 to the applicable Federal Rules of Civil Procedure, from which he could have inferred the need to  
08 explain precisely why he needed to exceed the ten-deposition limit.<sup>2</sup> *See* Fed. R. Civ. P. 30(a) and  
09 26(b).

10 Plaintiff makes two additional arguments as to why the Court should reconsider its prior  
11 Order. First, plaintiff contends that, notwithstanding his lack of familiarity with the case law  
12 governing motions for leave to exceed the ten-deposition limit, he included sufficient explanations  
13 in the Declaration he filed in conjunction with the motion. However, the Declaration repeats much  
14 of the same explanations that plaintiff offered in the motion – *i.e.*, that he needed to depose a  
15 particular person to establish that person's intent or to confront them about evasive answers to  
16 interrogatories. (Dkt. #188, Declaration at 2-11). As the Court noted earlier, these explanations  
17 are not very compelling because plaintiff offers nothing to support his own subjective view that  
18 defendants' answers to interrogatories have been evasive. (Dkt. #191 at 3).

19 Second, plaintiff argues that if he is unable to depose additional individuals, he may be  
20

---

21 <sup>2</sup> In addition, the Court notes that even now, plaintiff still does not provide more  
22 information or argument to make this showing, despite the fact that he concedes he is now aware  
of the requirement. Instead, he requests additional time to make the showing and does not offer  
any explanation as to why more time is necessary.

01 forced to withdraw some of his claims and re-file them in a separate lawsuit, which would thwart  
02 judicial economy. (Dkt. #195 at 8-9). Besides being speculative, this argument is clearly one that  
03 could have been raised in the original motion for leave to conduct more than ten depositions.  
04 Accordingly, it is not grounds for granting the motion for reconsideration. *See* Local Rule CR  
05 7(h)(1) (“The court will ordinarily deny [a motion for reconsideration] in the absence of a showing  
06 of . . . new facts or legal authority *which could not have been brought to its attention earlier with*  
07 *reasonable diligence.*”) (emphasis added).

08 For the foregoing reasons, plaintiff’s motion for reconsideration (Dkt. #195) is DENIED.

09 (2) The Clerk is directed to send a copy of this Order to plaintiff, to counsel for  
10 defendants, and to the Honorable John C. Coughenour.

11 DATED this 29th day of September, 2006.

12 

13 Mary Alice Theiler  
14 United States Magistrate Judge  
15  
16  
17  
18  
19  
20  
21  
22